

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 104 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning civil
- 3 procedure.
- 4 Page 1, line 1, delete "THE FOLLOWING ARE REPEALED" and
- 5 insert "IC 34-10-1-2 IS AMENDED TO READ AS FOLLOWS".
- 6 Page 1, line 2, delete "IC 34-10-1; IC 34-10-2." and insert "Sec. 2.
- 7 **(a) This section shall not be construed to prohibit a court from**
- 8 **participating in a pro bono legal services program or other**
- 9 **program that provides legal services to litigants:**
- 10 **(1) without charge; or**
- 11 **(2) at a reduced fee.**
- 12 **(b) If the court is satisfied that a person who makes an application**
- 13 **described in section 1 of this chapter does not have sufficient means to**
- 14 **prosecute or defend the action, the court: ~~shall:~~**
- 15 **(1) shall** admit the applicant to prosecute or defend as an indigent
- 16 **person; and**
- 17 **(2) may, under exceptional circumstances,** assign an attorney
- 18 **to defend or prosecute the cause.**
- 19 **(c) The factors that a court may consider under subsection**
- 20 **(b)(2) include the following:**
- 21 **(1) The likelihood of the applicant prevailing on the merits of**
- 22 **the applicant's claim or defense.**
- 23 **(2) The applicant's ability to investigate and present the**
- 24 **applicant's claims or defenses without an attorney, given the**
- 25 **type and complexity of the facts and legal issues in the action.**
- 26 **(d) The court shall deny an application made under section 1 of**
- 27 **this chapter if the court determines any of the following:**
- 28 **(1) The applicant failed to make a diligent effort to obtain an**
- 29 **attorney before filing the application.**
- 30 **(2) The applicant is unlikely to prevail on the applicant's claim**
- 31 **or defense.**

1 (e) All officers required to prosecute or defend the action shall do
2 their duty in the case without taking any fee or reward from the
3 indigent person.

4 (f) **The reasonable attorney's fees and expenses of an attorney**
5 **appointed to represent an applicant under section 1 of this chapter**
6 **shall be paid from the money appropriated to the court:**

7 (1) **appointing the attorney, if the action was not transferred**
8 **to another county; or**

9 (2) **from which the action was transferred, if the action was**
10 **transferred to another county."**

11 Renumber all SECTIONS consecutively.

(Reference is to SB 104 as printed February 23, 2001.)

Senator LANANE